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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BRIAN LAMAR PONDER,  Plaintiff,  v.  DONALD SONY PROPHETE,  Defendant.	CIVIL ACTION  No. 1:16-cv-1043  <b>COMPLAINT</b>
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Plaintiff BRIAN LAMAR PONDER (“Plaintiff”) for his COMPLAINT against Defendant DONALD SONY PROPHETE (“Defendant”) respectfully alleges:

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1).
2. The matter in controversy exceeds the value of \$75,000, exclusive of interest and costs.
3. The matter in controversy in this civil action is between citizens of different States.
4. Plaintiff is a citizen of the State of New Jersey.
5. Defendant is a citizen of the State of Missouri.
6. Venue is proper in the Southern District of New York under 28 U.S.C. § 1391(b)(3).
7. Defendant is subject to this Court’s personal jurisdiction with respect to this civil action.
8. Defendant is a partner at Constangy, Brooks, Smith & Prophete LLP (“Constangy”).
9. Constangy is a New York Foreign Registered Limited Liability Partnership.
10. Constangy is located at 620 Eighth Avenue, 38<sup>th</sup> Floor, New York, New York 10018.

**COUNT I - Battery**

11. Plaintiff realleges the allegations in paragraphs 1 through 10 as if fully set forth herein.
12. On February 5, 2016, Prophete intentionally pushed Plaintiff in an offensive manner.
13. On February 5, 2016, after pushing Plaintiff, Prophete threatened to beat and kill Plaintiff.
14. On February 5, 2016, Prophete attempted to attack Plaintiff, but was grabbed by other men.
15. Prophete is liable to Plaintiff for the intentional tort of battery.

**COUNT II - False Imprisonment**

16. Plaintiff realleges the allegations in paragraphs 1 through 15 as if fully set forth herein.
17. On February 5, 2016, Prophete pushed Plaintiff and was pulled into another room by men.
18. Plaintiff was in fear of bodily harm or death by Prophete and locked himself in a bedroom.
19. Plaintiff called for help and remained locked inside of the bedroom to avoid Prophete.
20. Prophete began to bang on the bedroom door demanding Plaintiff to come out of the room.
21. Prophete violently exclaimed that he would beat up Plaintiff as soon as Plaintiff exited.
22. Plaintiff reasonably feared that Prophete would harm or kill Plaintiff if he exited the room.
23. Plaintiff remained in the bedroom locked inside to avoid harm or death by Prophete.
24. Plaintiff was confined in the bedroom for over one (1) hour and could not safely escape.
25. Prophete is liable to Plaintiff for the intentional tort of false imprisonment.

**COUNT III - Assault**

26. Plaintiff realleges the allegations in paragraphs 1 through 25 as if fully set forth herein.
27. On February 5, 2016, Plaintiff enlisted a friend's help to be escorted out of the bedroom.
28. As Plaintiff exited the bedroom, Plaintiff saw Prophete attempt to throw a stool at him.
29. Plaintiff was in fear that the stool would immediately hit him causing injury or death.
30. Prophete is liable to Plaintiff for the intentional tort of assault.

31. Plaintiff did not consent to the offensive touching by Defendant on February 5, 2016.
32. Plaintiff did not consent to be completely confined by fear of harm on February 5, 2016.
33. Plaintiff did not consent to be in apprehension of an imminent battery on February 5, 2016.
34. As a proximate result of the alleged acts Plaintiff suffered harm, entitling him to damages.

**PRAYER FOR RELIEF**

Plaintiff requests entry of judgment against Defendant DONALD SONY PROPHETE for

COUNT I – Battery

- a. actual damages of \$120,000.00 U.S. or in an amount to be determined at trial,
- b. punitive damages of \$360,000.00 U.S. or in an amount to be determined at trial, and
- c. such other relief that this Court deems just and proper,

COUNT II – False Imprisonment

- d. actual damages of \$250,000.00 U.S. or in an amount to be determined at trial,
- e. punitive damages of \$1,000,000.00 U.S. or in an amount to be determined at trial, and
- f. such other relief that this Court deems just and proper,

COUNT III – Assault

- g. actual damages of \$100,000.00 U.S. or in an amount to be determined at trial,
- h. punitive damages of \$300,000.00 U.S. or in an amount to be determined at trial, and
- i. such other relief that this Court deems just and proper.

Respectfully submitted,

Dated: New York, New York  
February 10, 2016

s/ Brian L. Ponder  
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